

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

JAIME BALLESTEROS,)	
)	
Petitioner,)	
)	
v.)	
)	
WARDEN MICHAEL UNDERWOOD, and)	Civil Action No. 3:23-250
Director Colette S. Peters,)	Judge Nora Barry Fischer
)	Magistrate Judge Keith Pesto
Respondents.)	

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

JAIME BALLESTEROS,)	
)	
Petitioner,)	
)	
v.)	
)	
ICE/D.H.S. and WARDEN OF FCI)	Civil Action No. 3:23-261
LORETTO,)	Judge Nora Barry Fischer
)	Magistrate Judge Keith Pesto
Respondents.)	

MEMORANDUM ORDER

Presently before the Court are two similar § 2241 habeas petitions filed by Petitioner Jaime Ballesteros against Warden Michael Underwood, BOP Director Colette S. Peters, and/or ICE/DHS challenging the BOP's refusal to apply earned time credits and move up the petitioner's release date due to an immigration detainer. (Civ. A. Nos. 2:23-250, Docket No. 4; Civ. A. No. 2:23-261, Docket No. 3). United States Magistrate Judge Keith A. Pesto authored two Reports and Recommendation ("R&Rs") dated February 28, 2024, respectively, recommending that the petitions be denied preservice. (Civ. A. No. 3:23-250, Docket No. 5;

Civ. A. No. 3:23-261, Docket No. 7). Petitioner timely submitted objections to both R&Rs along with motions for writs of mandamus and summary judgment. (Civ. A. No. 3:23-250, Docket Nos. 6, 10; Civ. A. No. 3:23-261, Docket Nos. 4, 8). Magistrate Judge Pesto then issued a Memorandum Order on July 30, 2024 indicating that Petitioner was incarcerated at FCI Loretto at the time that he filed these Petitions, but the Federal Bureau of Prisons' Inmate Locator indicates that he was subsequently released in April 2024 and likely transferred to an ICE detainer and denying the motions as moot. (Civ. A. No. 3:23-250, Docket No. 11; Civ. A. No. 3:23-261, Docket No. 9). Given same, Magistrate Judge Pesto also recommended that the Petitions be dismissed, as moot. (*Id.*). These matters have been reassigned to the undersigned for prompt review and disposition. (Civ. A. No. 3:23-250, Docket No. 13; Civ. A. No. 3:23-261, Docket No. 11).

After careful consideration of the habeas Petitions, the R&Rs, Petitioner's objections, and the Memorandum Order, and the Court having conducted a de novo review of same, along with consideration of pertinent caselaw indicating that habeas petitions such as those filed in these matters which challenge only the execution of an inmate's sentence are deemed moot upon the inmate's release from custody, *see e.g., Malik v. Warden Loretto FCI*, No. 23-2281, 2024 WL 3649570, at *2 (3d Cir. Aug. 5, 2024) ("Because Malik had been released to prerelease custody, his request for release to such custody was moot. [...] Regardless of whether his request for an earlier transfer to supervised release was moot at the time of the Magistrate Judge's order or simply meritless because he had already received the maximum credit allowed towards an earlier release from custody to supervised release, see § 3624(g)(3), such a request is moot now that Malik is on supervised release."); *Constantine v. United States*, No. 1:23-CV-22, 2023 WL

6811999, at *2 (W.D. Pa. Aug. 28, 2023), *report and recommendation adopted*, No. CV 23-22, 2023 WL 6810862 (W.D. Pa. Oct. 16, 2023) (“Since the BOP released Petitioner from its custody, there is no longer any habeas relief that this Court can provide.”);

IT IS HEREBY ORDERED that the Reports and Recommendation, as modified by the Memorandum Order (Civ. A. No. 3:23-250, Docket Nos. 7, 11; Civ. A. No. 3:23-261, Docket Nos. 5, 9) are collectively adopted as the Opinion of the Court;

IT IS FURTHER ORDERED that Petitioner’s Objections (Civ. A. No. 3:23-250, Docket Nos. 6, 10; Civ. A. No. 3:23-261, Docket Nos. 4, 8) are OVERRULED;

IT IS FURTHER ORDERED that the Petitions (Civ. A. Nos. 2:23-250, Docket No. 4; Civ. A. No. 2:23-261, Docket No. 3) are DISMISSED, with prejudice, as moot and no certificate of appealability shall issue;

FINALLY, IT IS ORDERED that the Clerk of Court shall mark these cases CLOSED.

s/Nora Barry Fischer
Nora Barry Fischer
Senior U.S. District Judge

Dated: December 30, 2024

cc/ecf: Magistrate Judge Keith A. Pesto

cc: JAIME BALLESTEROS
46784-380
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